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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,657	12/15/2003	Alex A. Lopez-Estrada	110349-133006	5345

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EXAMINER

COUGHLAN, PETER D

ART UNIT PAPER NUMBER

2129

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/736,657	Applicant(s) LOPEZ-ESTRADA, ALEX A.	
	Examiner Peter Coughlan	Art Unit 2129	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/11/05 &amp; 6/14/05</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## Detailed Action

1. Claims 1-33 are pending in this application.

### **35 USC § 101**

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-33 are rejected under 35 U.S.C. 101 for nonstatutory subject matter. The computer system must set forth a practical application of that § 101 judicial exception to produce a real-world result. Benson, 409 U.S. at 71-72, 175 USPQ at 676-77. The invention is ineligible because it has not been limited to a substantial practical application. A platform adaptation method has no real world purpose or function.

In determining whether the claim is for a “practical application,” the focus is not on whether the steps taken to achieve a particular result are useful, tangible and concrete, but rather that the final result achieved by the claimed invention is “useful, tangible and concrete.” If the claim is directed to a practical application of the § 101 judicial exception producing a result tied to the physical world that does not preempt the judicial exception, then the claim meets the statutory requirement of 35 U.S.C. § 101.

Phrases like, 'platform adaptation', 'platform's execution of the workload', 'configure the platform', 'being executed by a platform sufficiently resembles' are all abstract concepts and have no practical application.

The invention must be for a practical application and either:

- 1) specify transforming (physical thing) or
- 2) have the FINAL RESULT (not the steps) achieve or produce a  
useful (specific, substantial, AND credible),  
concrete (substantially repeatable/ non-unpredictable), AND  
tangible (real world/ non-abstract) result.

A claim that is so broad that it reads on both statutory and non-statutory subject matter, must be amended, and if the specification discloses a practical application but the claim is broader than the disclosure such that it does not require the practical application, then the claim must be amended.

Claims that recite abstract concepts with no real world functionality are not statutory.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5, 7-9, 13-33 are rejected under 35 U.S.C. 102(b) (hereinafter referred to as **Reinemann**) being anticipated by Reinemann , U.S. Patent Publication 20030115118.

Claim 1.

Reineman anticipates executing a workload on a platform (**Reinemann**, abstract; 'Workload' and 'platform' of applicant is equivalent to 'processors (NOTE ≠ CPU)' and 'network of processors' of Reinemann.); monitoring the platform for one or more performance events associated with the platform executing the workload (**Reinemann**, abstract; 'Monitoring' and 'performance events' of applicant is equivalent to 'monitor and 'resource utilization' of Reinemann.); determining (**Reinemann**, ¶0012; 'Determining' of applicant is accomplished by the 'policy manager' of Reinemann.) which if any, of one or more pre-established sets of configuration parameter values (**Reinemann**, ¶0013; 'Pre-established sets' and 'parameter values' of applicant is equivalent to 'policy' and 'parameter' of Reinemann.) should be selected for application to configure the platform, based at least in part on the one or more performance events observed during said monitoring (**Reinemann**, abstract; 'Configure' and 'performance events' of applicant is equivalent to 'share or trade' and 'respective resources' of Reinemann.); and if one of the one or more pre-established sets of configuration parameter values is determined to be selected and applied to configure the platform, selecting and applying the pre-established set of configuration parameter values to configure the platform. (**Reinemann**, abstract; 'Applying' the set of applicant is equivalent 'releasing a portion' of Reinemann.)

Claim 3.

Reineman anticipates one or more pre-established sets of configuration parameter values comprises one or more sets of configuration parameter values pre-selected for the platform to execute one or more corresponding reference workloads (**Reinemann**, ¶0013; 'Sets' of applicant is equivalent to 'policy' of Reinemann.); and said determining comprises determining whether the workload resembles one of the one or more corresponding reference workloads, based at least in part on the one or more performance events observed during said monitoring. (**Reinemann**, ¶0012; The 'policy manager' of Reinemann determines by collecting performance status from 'accounting manager' based on 'utilization the resources' (performance events))

Claim 4.

Reinemann anticipates determining one or more correlation metrics between the workload and the one or more reference workloads, based on the one or more performance events observed during said monitoring, and during one or more prior executions of the one or more reference workloads (**Reinemann**, ¶0037; 'Correlation metric ' of applicant is equivalent to 'utilization' of Reinemann.); and determining whether at least one of the determined one or more correlation metrics exceeds a correlation threshold. (**Reinemann**, ¶0037; 'Correlation threshold' of applicant is equivalent to 'threshold' of Reinemann.)

Art Unit: 2129

Claim 5.

Reineman anticipates identifying for selection, the set of one or more configuration parameter values pre-selected for the platform to execute a reference workload, with which the workload is determined to resemble. (**Reinemann**, ¶0012; The 'policy manager' of Reinemann selects (equivalent to 'identifying' of applicant) the policy (equivalent to set of applicant).)

Claim 7.

Reineman anticipates pre-selecting said one or more sets of configuration parameter values for the platform to execute the one or more corresponding reference workloads. (**Reinemann**, ¶0012; The policy manager selects policies and pre-selects based on performance status.)

Claim 8.

Reineman anticipates determining comprises generating an index based at least in part on the one or more performance events observed during said monitoring (**Reinemann**, ¶0011; 'Index' of applicant is equivalent to 'archived' by Reinemann.); and selecting one of the one or more pre-established sets of configuration parameter values, based at least in part on the generated index. (**Reinemann**, ¶0012; The policy manager uses the performance status for determination and the performance status is indexed (equivalent to archived of Reinemann).)

Art Unit: 2129

Claim 9.

Reineman anticipates generating comprises evaluating an index function in view of the one or more performance events observed during said monitoring. (**Reinemann**, ¶0003 and Figure #1; The utilization of processors 11, 12 and 13 in Figure #1 are monitored for overloading or underutilization. The results of these are archived for the policy manager to evaluate.)

Claim 13.

Reineman anticipates determining a correlation metric between the workload and the reference workload, based on the one or more performance events observed during said monitoring (**Reinemann**, ¶0037; 'Correlation metric' of applicant is equivalent to 'utilization' of Reinemann.), and observed during at least one prior execution of the reference workload; and determining whether the correlation metric exceeds a correlation threshold. (**Reinemann**, ¶0037; 'Correlation threshold' of applicant is equivalent to 'threshold' of Reinemann.)

Claim 14.

Reineman anticipates receiving the one or more performance events observed during said monitoring; and said monitoring. (**Reinemann**, ¶0014; The policy manager monitors the resource utilization. 'Performance events' of applicant is equivalent to 'resource utilization' of Reinemann.)



Art Unit: 2129

Claim 15.

Reineman anticipates the platform; and the method further comprises executing the workload (**Reinemann**, abstract ; 'Workload' and 'platform' of applicant is equivalent to 'processors (NOTE ≠ CPU)' and 'network of processors' of Reinemann.), and performing said monitoring. (**Reinemann**, abstract; 'Monitoring' of applicant is equivalent to 'monitor of Reinemann.)

Claim 16.

Reineman anticipates said performing comprises selecting a set of one or more configuration parameter values pre-selected for the platform to execute the determined resembled reference workload (**Reinemann**, ¶0012; The policy manager selects policies and pre-selects based on performance status.); and the method further comprises performing a selected one of applying the selected set of one or more configuration parameter values to configure the platform (**Reinemann**, abstract; 'Applying' the set of applicant is equivalent 'releasing a portion' of Reinemann.) , and providing information about the selected set of one or more configuration parameter values to facilitate application of the selected set of one or more configuration parameter values to configure the platform. (**Reinemann**, ¶0013; 'Providing information' of applicant is equivalent to 'target range' of parameters of Reinemann.)

Claim 17.

Reinemann anticipates generating an index based at least in part on one or more performance events observed in association with a platform's execution of a workload (**Reinemann**, ¶0011; 'Index' of applicant is equivalent to 'archived' by Reinemann.); and selecting one of one or more pre-established sets of configuration parameter values, based at least in part on the generated index, for application to configure the platform. (**Reinemann**, ¶0012; The policy manager uses the performance status for determination and the performance status is indexed (equivalent to archived of Reinemann).)

Claim 18.

Reinemann anticipates evaluating an index function in view of the one or more performance events observed. (**Reinemann**, ¶0003 and Figure #1; The utilization of processors 11, 12 and 13 in Figure #1 are monitored for overloading or underutilization. The results of these are archived for the policy manager to evaluate.)

Claim 19.

Reinemann anticipates performing a selected one of receiving the one or more performance events observed; and monitoring said execution of the workload by the platform. (**Reinemann**, ¶0014; The policy manager monitors the resource utilization. 'Performance events' of applicant is equivalent to 'resource utilization' of Reinemann.)

Claim 20.

Reinemann anticipates performing a selected one of providing information about the selected set of one or more configuration parameter values to facilitate application of the selected set of one or more configuration parameter values to configure the platform (**Reinemann**, ¶0013; 'Providing information' of applicant is equivalent to 'target range' of parameters of Reinemann.); and applying the selected set of one or more configuration parameter values to configure the platform, the platform being a part of the system. (**Reinemann**, abstract; 'Applying' the set of applicant is equivalent 'releasing a portion' of Reinemann.)

Claim 21.

Reinemann anticipates storage medium having stored therein programming instructions designed to enable the apparatus (**Reinemann**, ¶0002; 'Storage medium' of applicant is equivalent to 'disk storage' of Reinemann.) to determine whether a workload executed or being executed by a platform sufficiently resembles a reference workload, based at least in part on one or more performance events observed from monitoring the platform's execution of the workload (**Reinemann**, ¶0014; 'performance events', 'monitoring' and 'workload' of applicant is equivalent to 'resource', 'monitors' and 'processors' of Reinemann.), and if the workload is determined to sufficiently resemble the reference workload, perform at least a selected one of selecting a set of one or more configuration parameter values pre-selected for the platform to execute the determined resembled reference workload (**Reinemann**, abstract; 'Applying' the set of applicant is equivalent 'releasing a portion' of Reinemann.), and providing information

Art Unit: 2129

about the determined resembled reference workload to facilitate the selection of the set of one or more configuration parameter values pre-selected for the platform to execute the determined resembled reference workload (**Reinemann**, ¶0012; The 'accounting manager' of Reinemann provides information to the 'policy manager' which selects the policy (equivalent to 'set' of applicant) ); and at least one processor coupled to the storage medium to execute the programming instructions. (**Reinemann**, ¶0002)

## Claim 22.

Reinemann anticipates programming instructions are designed to enable the apparatus to perform said determine by determining a plurality of correlation metrics between the workload and the reference workload, based on the one or more performance events observed during said monitoring, observed during at least one prior execution of the reference workload (**Reinemann**, ¶0037; 'Correlation metric ' of applicant is equivalent to 'utilization' of Reinemann.); and determining whether at least one of determined correlation metrics exceeds a correlation threshold. (**Reinemann**, ¶0037; 'Correlation threshold' of applicant is equivalent to 'threshold' of Reinemann.)

## Claim 23.

Reinemann anticipates receiving the one or more performance events observed during said monitoring (**Reinemann**, ¶0014; The policy manager monitors the resource utilization. 'Performance events' of applicant is equivalent to 'resource utilization' of Reinemann.); monitoring the execution of the workload to observe the one or more

Art Unit: 2129

performance events; providing information about the selected set of one or more configuration parameter values to facilitate application of the selected set of one or more configuration parameter values to configure the platform (**Reinemann**, ¶0013; 'Providing information' of applicant is equivalent to 'target range' of parameters of Reinemann.); and applying the selected set of one or more configuration parameter values to configure the platform. (**Reinemann**, abstract; 'Set' and 'applying' of applicant is equivalent to 'policy' and 'releasing a portion' of Reinemann.)

## Claim 24.

Reinemann anticipates storage medium having stored therein programming instructions (**Reinemann**, ¶0002; 'Storage medium' of applicant is equivalent to 'disk storage' of Reinemann.) designed to enable the apparatus to generate an index based at least in part on one or more performance events observed in associated with a platform's execution of a workload (**Reinemann**, ¶0011; 'Index' of applicant is equivalent to 'archived' by Reinemann.); and select one of one or more pre-established sets of configuration parameter values, based at least in part on the generated index, for application to configure the platform (**Reinemann**, ¶0012; The policy manager uses the performance status for determination and the performance status is indexed (equivalent to archived of Reinemann).); and at least a processor coupled to storage medium to execute the programming instructions. (**Reinemann**, ¶0002)

## Claim 25.

Art Unit: 2129

Reinemann anticipates evaluating an index function in view of the one or more performance events observed. (**Reinemann**, ¶0003 and Figure #1; The utilization of processors 11, 12 and 13 in Figure #1 are monitored for overloading or underutilization. The results of these are archived for the policy manager to evaluate.)

Claim 26.

Reinemann anticipates receiving the one or more performance events observed; monitoring said execution of the workload by the platform (**Reinemann**, ¶0014; The policy manager monitors the resource utilization. 'Performance events' of applicant is equivalent to 'resource utilization' of Reinemann.); providing information about the selected set of one or more configuration parameter values to facilitate application of the selected set of one or more configuration parameter values to configure the platform (**Reinemann**, ¶0013; 'Providing information' of applicant is equivalent to 'target range' of parameters of Reinemann.); and applying the selected set of one or more configuration parameter values to configure the platform, the platform being a part of the system. (**Reinemann**, abstract; 'Set' and 'applying' of applicant is equivalent to 'policy' and 'releasing a portion' of Reinemann.)

Claim 27.

Reinemann anticipates a platform to execute a workload (**Reinemann**, abstract ; 'Workload' and 'platform' of applicant is equivalent to 'processors (NOTE ≠ CPU)' and 'network of processors' of Reinemann.); a monitor, either coupled to or an integral part

Art Unit: 2129

of the platform, to observe one or more performance events associated with the platform's execution of the workload (**Reinemann**, ¶0012; 'Monitor' of applicant is equivalent to 'interface' of Reinemann.; and an analyzer coupled to the monitor to receive the one or more performance events observed, and in response (**Reinemann**, ¶0012; 'Analyzer' of applicant is equivalent to 'policy manager' of Reinemann.), at least contribute to selecting if possible, a set of one or more configuration parameters values for application to configure the platform, based at least in part on the one or more performance events observed. (**Reinemann**, abstract; 'Set' and 'applying' of applicant is equivalent to 'policy' and 'releasing a portion' of Reinemann.)

## Claim 28.

Reinemann anticipates the analyzer is adapted to at least contribute by determining whether the workload resembles one of one or more reference workloads, based at least in part on the received one or more performance events observed, the resembled reference workload being employed to facilitate said selection of one of the one or more configuration parameter values. (**Reinemann**, ¶0012; The 'policy manager' ('analyzer' of applicant) of Reinemann determines by collecting performance status from 'accounting manager' based on 'utilization the resources' (performance events))

## Claim 29.

Art Unit: 2129

Reinemann anticipates the analyzer is adapted to at least contribute by generating an index to facilitate said selection of one of the one or more configuration parameter values, based at least in part on the received one or more performance events observed. (**Reinemann**, ¶0011; 'Index' of applicant is equivalent to 'archived' by Reinemann.)

Claim 30.

Reinemann anticipates a first networking interface; and the system further comprises a computing device hosting the analyzer, the computing device including a second networking interface to couple the computing device with the platform via a network connection. (**Reinemann**, ¶0012 and ¶0019; The analyzer of applicant is equivalent to 'policy manager' of Reinemann. 'First networking interface' and 'second networking interface' of applicant is equivalent to 'user A' and user B' of Reinemann. If both Users A & B can 'identify' resources then there must exist an interface.)

Claim 31.

Reinemann anticipates a machine readable medium instructions (**Reinemann**, ¶0002; 'Machine readable medium' of applicant is equivalent to 'disk storage' of Reinemann.); and a plurality of programming instructions on the machine readable medium, designed to enable an apparatus to observe one or more performance events associated with a platform's execution of a workload or receive the one or more performance events observed (**Reinemann**, ¶0012, abstract 'Performance events',



Art Unit: 2129

'platform' 'observed' of applicant are equivalent to 'utilization the resources', 'network or processors' 'obtains the performance status' of Reinemann.), and to at least contribute in selection of one or more configuration parameters values for application to configure the platform, based at least in part on the one or more performance events observed.

(**Reinemann**, ¶0012 and ¶0013; The 'policy manager' selects which policy(equivalent to 'set' of applicant) to implement and each policy includes parameters.)

Claim 32.

Reinemann anticipates the programming instructions are designed to enable the apparatus to contribute by determining whether the workload resembles one of one or more reference workloads, based at least in part on the received one or more performance events observed, the resembled reference workload being employed to facilitate said selection of one of the one or more configuration parameter values (**Reinemann**, ¶0012 and ¶0013; The 'policy manager' of Reinemann determines by collecting performance status from 'accounting manager' based on 'utilization the resources' (performance events) The policies (equivalent to 'sets' of applicant are composed of parameters.)

Claim 33.

Reinemann anticipates the programming instructions are designed to enable the apparatus to contribute by generating an index to facilitate said selection of one of the one or more configuration parameter values, based at least in part on the received

Art Unit: 2129

observed one or more performance events. (**Reinemann**, ¶0011 and ¶0013; 'Index' of applicant is equivalent to 'archived' by Reinemann. As in claim 32, all policies (equivalent to 'sets' of applicant contain parameters.)

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinemann as set forth above, in view of Sato and further in view of Chapple. ( U. S. Patent Publication 20020174389, referred to as **Sato**; U. S. Patent Publication 20020172320, referred to as **Chapple**)

Claim 2.

Reinemann fails to particularly call for monitoring at least a selected one of a processor performance counter, an OS performance counter, and a chipset performance counter, while the platform executes the workload.

Sato and Chapple teach monitoring at least a selected one of a processor performance counter (**Sato**, ¶0066), an OS performance counter (**Sato**, ¶0009), and a chipset performance counter, while the platform executes the workload. (**Chapple**, ¶0018) It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the teachings of Reinemann by using counters for from the processor, OS and chipset. as taught by Sato and Chapple to monitor at least a selected one of a processor performance counter, an OS performance counter, and a chipset performance counter, while the platform executes the workload.

For the purpose of using these three input values for input parameters for the 'sets'.

Claim 10.

Reinemann fails to particularly call for the one or more configuration parameter values comprise one or more of processor configuration parameter values, OS configuration parameter-values, and chipset configuration parameter values.

Sato and Chapple teach the one or more configuration parameter values comprise one or more of processor configuration parameter values (**Sato**, ¶0066; The processor counter of Sato can be used as a parameter value.), OS configuration parameter-values (**Sato**, ¶0009; The OS counter of Sato can be used as a parameter value.), and chipset configuration parameter values. (**Chapple**, ¶0018; The chipset counter of Chapple can be used as a parameter value.) It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the

Art Unit: 2129

teachings of Reinemann by using the processor, OS and chipset counters as input parameters as taught by Sato and Chapple to have the one or more configuration parameter values comprise one or more of processor configuration parameter values, OS configuration parameter-values, and chipset configuration parameter values.

For the purpose of using the current status of the processor, OS and chipset to determine which set to implement.

***Claim Rejections - 35 USC § 103***

5. Claims 6, 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Reinemann, as set forth above, and further in view of Chiu. (U. S. Patent Publication 20020186658).

Claims 6, 12.

Reinemann fails to particularly call for one or more reference workloads comprise at least a selected one of a route look-up workload, a OSPF workload, a JPEG codec workload, a 3DES encryption/decryption workload, an AES encryption/decryption workload, an IP packet forwarding workload, and a H.323 speech codec workload.

Chiu teaches one or more reference workloads comprise at least a selected one of a route look-up workload, a OSPF workload, a JPEG codec workload, a 3DES encryption/decryption workload, an AES encryption/decryption workload, 6

Art Unit: 2129

an IP packet forwarding workload, and a H.323 speech codec workload. (**Chiu**, ¶0023)

It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the teachings of Reinemann by going into some specific detail on what a 'reference workload' is as taught by Chiu to have one or more reference workloads comprise at least a selected one of a route look-up workload, a OSPF workload, a JPEG codec workload, a 3DES encryption/decryption workload, an AES encryption/decryption workload, an IP packet forwarding workload, and a H.323 speech codec workload.

For the purpose of indicating that the invention is compatible with real world protocols that would enable it to interact with other real world systems.

Claim 11.

Reinemann teaches determining. (**Reinemann**, ¶0012; 'Determining' of applicant is accomplished by the 'policy manager' of Reinemann.)

Reinemann fails to teach whether a workload executed or being executed by a platform resembles a reference workload.

Chiu teaches whether a workload executed or being executed by a platform resembles a reference workload. (**Chiu**, ¶0023; 'Reference workload' of applicant is equivalent to 'OSPF' of Chiu.) It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the teachings of Reinemann by going into specific detail of an accepted that can be used with the method as taught

Art Unit: 2129

by Chiu to have whether a workload executed or being executed by a platform resembles a reference workload.

For the purpose of integrating the method into the real world situation.

Reinemann teaches based at least in part on one or more performance events observed from monitoring the platform's execution of the workload (**Reinemann**, 'Performance events' of applicant is equivalent to 'respective resources' of Reinemann.); and if the workload is determined to resemble the reference workload, performing a selected one of selecting a set of one or more configuration parameter values pre-selected for the platform to execute the resembled reference workload (**Reinemann**, ¶0013; 'Set' of applicant is equivalent to 'policy' of Reinemann.), and providing information about the determined resembled reference workload to facilitate the selection of the set of one or more configuration parameter values pre-selected for the platform to execute the determined resembled reference workload. (**Reinemann**, ¶0012; The 'accounting manager' of Reinemann provides information to the 'policy manager' which selects the policy (equivalent to 'set' of applicant) )

### ***Conclusion***

6. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure.

-U. S. Patent Publication 20030191829: Masters

-U. S. Patent Publication 20030158884: Alford

Art Unit: 2129

- U. S. Patent Publication 20030140087: Lincoln
- U. S. Patent Publication 20030139918: Hardwick
- U. S. Patent Publication 20030115495: Rawson
- U. S. Patent Publication 20030065835: Maergner
- U. S. Patent Publication 20030061362: Qiu
- U. S. Patent Publication 20030061004: Discenzo
- U. S. Patent Publication 20030046396: Richter
- U. S. Patent Publication 20020194251: Richter
- U. S. Patent Publication 20020174227: Hartsell

7. Claims 1-33 are rejected.

***Correspondence Information***

8. Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner Peter Coughlan, whose telephone number is (571) 272-5990. The Examiner can be reached on Monday through Friday from 7:15 a.m. to 3:45 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor David Vincent can be reached at (571) 272-3687. Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,

Application/Control Number: 10/736,657  
Art Unit: 2129

Page 23

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Peter Coughlan

5/5/2006

